

— PART 1 —

JUSTICE

JM301*

Supreme Court Act 1935

Supreme Court Amendment Rules (No. 7) 2001

Made by the Judges of the Supreme Court.

1. Citation

These rules may be cited as the *Supreme Court Amendment Rules (No. 7) 2001*.

2. Commencement

These rules come into operation on 30 June 2001.

3. The rules amended

The amendments in these rules are to the *Rules of the Supreme Court 1971**.

[* *Reprinted as at 1 December 2000.*

For amendments to 15 May 2001 see 2000 Index to Legislation of Western Australia, Table 4, p. 347, and Gazette 23 January and 2 February 2001.]

4. Order 81G amended

- (1) Order 81G Rule 12(2) is amended by deleting “An” and inserting instead —

“ Subject to Rule 12A, an ”.

- (2) After Order 81G Rule 12 the following Rule is inserted —

“

12A. Application for order setting aside statutory demand (s. 459G of the Law)

- (1) This Rule applies, and Rule 12(2) does not apply, to an application by a company under section 459G of the Law for an order setting aside a statutory demand served on the company.

- (2) The plaintiff may file with the originating process seeking the order a copy of the statutory demand and a copy of any affidavit that accompanied the statutory demand.
- (3) The plaintiff must —
 - (a) no earlier than 7 days before the originating process is filed, and no later than the day before the hearing of the application, carry out a search of the records maintained by the Commission in relation to the plaintiff; and
 - (b) either —
 - (i) annex a record of the search to the affidavit in support of the originating process; or
 - (ii) file a record of the search before, or tender it on, the hearing of the application.

”.

- (3) Order 81G Rule 26 is amended as follows:
 - (a) before “An” by inserting the subrule designation “(1)”;
 - (b) at the end of the Rule by inserting the following subrules —

“

- (2) Unless the Court otherwise orders, a meeting of members ordered under section 411 of the Law must be convened, held and conducted in accordance with —
 - (a) the provisions of Part 2G.2 of the Law that apply to the members of a company; and
 - (b) the provisions of the plaintiff’s constitution that apply in relation to meetings of members and are not inconsistent with Part 2G.2 of the Law.
- (3) Unless the Court otherwise orders, a meeting of a class of holders of convertible securities ordered under section 411 of the Law must be convened, held and conducted —
 - (a) as if —
 - (i) the holders were a separate class of members; and
 - (ii) the meeting were a meeting of members convened, held and conducted under subrule (2);

but

- (b) in accordance with, and subject to, the applicable provisions of the instrument under which the securities were issued.

”.

- (4) Order 81G Rule 66(2) is amended by deleting “ex parte.” and inserting instead —

“ without notice to any person. ”.

- (5) Order 81G Rule 67(2) is repealed and the following subrule is inserted instead —

“

- (2) The application may be made without notice to any person.

”.

5. Seventh Schedule amended

The Seventh Schedule Part 1 Form 7 is amended as follows:

- (a) by deleting paragraph 1 and inserting the following paragraph instead —

“

- 1 I am [*state deponent's relationship to the creditor(s), e.g., 'the creditor', '(name), one of the creditors', 'a director of the creditor', 'a director of (name), one of the creditors'*] in respect of *a debt of \$[*amount*]/*debts totalling \$[*amount*] owed by [*name of debtor company*] to *it/*them relating to [*state nature of debt, or debts, ensuring that what is stated corresponds with the description of the debt, or debts, to be given in the proposed statutory demand with which this affidavit is to be served on the debtor company*].

”;

- (b) by deleting paragraph 4 and inserting the following paragraph instead —

“

- 4 The *debt/*total amount of the debts mentioned in paragraph 1 of this affidavit is due and payable by the debtor company.

”.

Dated: 21 May 2001.

G. A. KENNEDY,
Acting Chief Justice's signature.

H. A. WALLWORK

A. J. TEMPLEMAN

M. J. MURRAY

C. A. WHEELER

R. J. M. ANDERSON

G. P. MILLER

N. J. OWEN

J. R. McKECHNIE

G. F. SCOTT

N. P. HASLUCK

C. D. STEYTLER

L. W. ROBERTS SMITH

K. H. PARKER

C. J. McLURE

Judges' signatures.